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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

MAY 27 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Section 25  
of the Cable Television Consumer  
Protection and Competition Act  
of 1992

MM Docket No. 93-25

Direct Broadcast Satellite  
Public Service Obligations

To: The Commission

ERRATUM OF  
ASSOCIATION OF AMERICA'S PUBLIC TELEVISION STATIONS  
and CORPORATION FOR PUBLIC BROADCASTING

The Association of America's Public Television Stations  
("APTS") and the Corporation for Public Broadcasting ("CPB")  
hereby submit this erratum to correct a clerical error on the  
first page of the summary that accompanied their comments filed  
by on May 24, 1992 in the above-captioned proceeding. For  
convenience, APTS and CPB have resubmitted the entire summary  
which should be substituted for the summary filed on May 24th.

Respectfully submitted,

## SUMMARY

Section 25(b) of the Cable Television Consumer Protection and Competition Act of 1992 ("the Act") carries forward into the DBS medium the policies adopted in 1952 when the Commission initially set aside television channels for noncommercial educational use. Congress has consistently reaffirmed the government's paramount interest in advancing the nation's educational and cultural goals through the delivery of noncommercial educational programming.

Congress has also recognized that the distribution of this programming should be distributed through all available telecommunications technologies. Accordingly, the Association of America's Public Television Stations ("APTS") and the Corporation for Public Broadcasting ("CPB") submit that the regulations the Commission adopts must assure that public broadcasters and other qualified educational institutions are (1) given access to DBS satellite facilities at reasonable rates and (2) assured that the capacity made available is in amounts and at times that will permit them to offer meaningful program services to the audiences for which they are intended. These comments set forth proposals that APTS and CPB believe will achieve those objective.

First, APTS and CPB urge the Commission to make the licensee, in the case of both Part 100 and Part 25 satellites, ultimately responsible for assuring that DBS capacity is made available for noncommercial program services. Whether the licensee makes the channel capacity directly available itself or

imposes conditions on those leasing DBS capacity, it should be responsible for making certain that the Section 25(b) obligations are met.

Second, to facilitate use of the capacity and Commission enforcement of the obligations, the Commission should require the licensees of both Part 100 and Part 25 satellites to file reports quarterly concerning DBS use.

Third, APTS and CPB suggest a proposal for implementing the 4 to 7 percent channel reservation requirement designed to assure that noncommercial programming suppliers can offer a meaningful and useful program service, while equitably balancing the legitimate interests of the DBS provider. It is based on four principles: (i) the amount of capacity made available should be based on the total capacity of the satellite used for DBS; (ii)

the extent that they interfere with the rights afforded non-commercial users, should not be grandfathered. Grandfathering such contracts would unduly postpone achieving Congress' objective in enacting Section 25, by delaying noncommercial programming suppliers access to the DBS capacity.

Sixth, the Commission should require, as a part of the satellite licensee's obligation to make capacity available to noncommercial users, that (i) regular noncommercial programming is available to subscribers from the DBS operator as part of the lowest-price "tier", (ii) special-event noncommercial programming is available to subscribers at the lowest per-program-hour rate charged for any pay-per-programming, and (iii) the subscriber is

Ninth, the Commission should permit the DBS provider to use unused noncommercial capacity until the noncommercial programming supplier is ready to use the capacity. APTS and CPB also suggest that noncommercial users give the DBS provider at least ten days notice of their intention to use the reserved channel capacity.

Tenth, in light of the clear statutory language and reinforcing legislative history, the Commission should define "direct costs" narrowly to minimize the cost to noncommercial program suppliers. APTS and CPB urge it to limit direct costs to the allocable portion of the following cost items: (a) encoding, compression and uplinking, (b) authorizing user to access the satellite, (c) producing, publishing and distributing program guides. and (d) direct taxes occasioned by the sale or lease of

25(b), and feasibility of imposing local programming obligations  
on DBS providers.